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Comments to the Illinois Health Care Reform Implementation Council

Health Insurance Reform and the Option of Establishing an Insurance Exchange in Illinois

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The AIDS Foundation of Chicago (AFC) thanks the Illinois Health Care Reform Implementation Council for the opportunity to provide input on the health care reform implementation issues for Illinois. Health care reform has the opportunity to transform the fight against AIDS in Illinois by increasing access to care, reducing health disparities and improving health outcomes. Most importantly, as many as 10,000 uninsured people with HIV will be able to access medications and treatment for all their health conditions, not just HIV. Our detailed comments are below.

Functions of a Health Benefit Exchange

1. *What advantages will Illinois see in operating its own exchange versus permitting the U.S. Department of Health and Human Services (HHS) to run an Exchange for the State?*

Illinois consumers would greatly benefit from a state-run exchange, which would tailor operations to the state's unique challenges and insurance market conditions. The state-run exchange could institute consumer protections that are stronger than those in the federal system. A locally-run exchange is likely to be more responsive to local needs.

2. *What are the most desirable outcomes from an insurance market perspective? What features should the Exchange contain in order to reach those outcomes?*

The Illinois exchange should foster an insurance market that is consumer and business-friendly, promotes quality health care, fosters transparency in cost and health outcomes, provides maximum consumer choice, and is stable in pricing and availability of plans and providers from year to year. To achieve these goals, the exchange should include as large as possible pool of consumers and businesses to spread risk and attract healthy customers.

3. *What, if any, Exchange functions beyond the minimum clearinghouse functions required in the ACA would benefit Illinois and why?*

The insurance exchange must add value to the health care system by being more than an online

shopping tool. It should become an entity that purchases high-quality health care on behalf of individuals and businesses and leverages its potentially significant purchasing power to slow growth in health care costs by negotiating rates with insurance companies.

Other roles the exchange should play include screening plans for quality (allowing only plans that provide the best value to participate), rewarding the adoption of tools such as electronic medical records, improving transparency in cost and quality, and providing a tool for reporting of consumer feedback.

4. What advantages are presented to Illinois if the Exchange were to limit the number of plans offered? Is the Exchange a stronger marketplace if it permits “any willing provider” to sell coverage?

The number of plans must be limited so companies are forced to compete on price, quality, network, and other attributes. The best way to create a strong marketplace will be to establish the exchange as a tool for consumers to select a high-quality, affordable plan that meets their health care needs. To achieve this goal, the exchange must include only plans that deliver the best value. A consumer-friendly exchange will be the most efficient way to create a strong insurance marketplace. If any willing provider participates, individuals and businesses will be presented with poor plans that are difficult to choose between.

Structure and Governance

1. If the Illinois chooses to establish its own Exchange, which governance structure would best accomplish the goal of more affordable, accessible health insurance coverage? Why?

The exchange should be an independent organization structured as a non-profit corporation, state agency, or authority. It should be independent of any existing state agency. Strong laws should prevent conflicts of interest and foster transparency, accountability, and public participation, and avoid corruption. It should be professionally staffed and have an adequate budget to accomplish its work.

2. If the Exchange is run by an executive director and/or a governing board, what should be the expertise of those appointed? How long should the terms be? Are there existing models to which the State should look?

The exchange should have an independent board of directors of a manageable size (5-10 members). Members should have appropriate expertise and should function primarily as representatives of policy holders. They should be free of conflict of interest—insurers, agents, brokers, health care facilities and providers should be barred from serving as board members. Those interests should be represented on an advisory board.

External Market and Addressing Adverse Selection:

1. Should Illinois establish a dual market for health insurance coverage or should it eliminate the external individual market and require that all individual insurance be sold through the Exchange? What would be the effects of doing so?

Ideally, Illinois should establish a single marketplace in the exchange to guarantee the largest possible risk pool. However, doing so is likely to harm undocumented individuals, who are barred from purchasing in the exchanges. A dual market may be the only viable option to ensure fairness for undocumented individuals. Illinois must take adequate steps to make sure both markets are equally competitive and offer similar choices to consumers.

2. What other mechanisms to mitigate “adverse selection” (i.e. requiring the same rules for plans sold inside and outside of the Exchange) should the state consider implementing as part of an Exchange?

Illinois should pass legislation to require plans sold in the exchange and outside the exchange to follow the same standards. Plans should be identical in all regards, including price, waiting period prohibitions, and limits on out-of-pocket costs.

Insurers outside the exchange should offer at least Silver and Gold plans to maintain consistency with the exchange. Illinois should limit the ability of insurers to offer only Bronze or catastrophic coverage plans outside the plan to limit low-cost, low-coverage plans that will attract only healthy individuals.

3. Are there hybrid models for the Exchange the State should consider? What characteristics do they offer that would benefit Illinoisans?

Hybrid models are worthy of consideration if they guard against adverse selection and foster low-cost, comprehensive plans at every tier.

4. If the Exchange and the external market operate in parallel, what strategies and public policies should Illinois pursue to ensure the healthy operation of each? Should the same rules apply to plans sold inside and outside an Exchange? Should the same plans be sold inside and outside the Exchange without exception?

Assuming that the Exchange and the external market operate in parallel, the same rules must apply to plans sold inside and outside an Exchange. Doing so will encourage fairness for consumers and level the playing field for consumers and small businesses. The same plans must be available inside and outside the exchange to deter gaming the system by insurers.

The exchange must certify plans for participation and must take excessive or unjustified premium increases into account in determining whether to make a health plan available through the exchange. The policies of the Exchange must support an aggressive, consumer-focused regulatory role, by limiting participation to high-value plans. The Department of

Insurance must have sufficient rate review and approval authority to sufficiently regulate insurers. Legislation should be passed and signed as quickly as possible to grant the Department that review power so that it can adequately enforce the new provisions reform offers.

5. What rules (if any) should the State consider as part of establishing the open enrollment period?

During the first year, Illinois should consider limiting insurance plans from establishing open enrollments or allowing appropriate exemption to any open enrollment periods, since it will take time for many families to learn about their new rights under the new law and to seek enrollment. Illinois should also consider setting rules under which the open enrollment periods operate, including restricting insurers' ability to underwrite outside of the open enrollment period, expanding when open enrollments must occur and how long they should last, and providing for special enrollment periods for families facing changing circumstances such as a job change. The same open enrollment period should apply inside and outside the exchange.

6. The ACA requires states to adopt systems of risk adjustment and reinsurance for the first three years of Exchange operation. How should these tasks be approached in Illinois? What are issues the State should be aware of in establishing these mechanisms?

No response.

7. Given the new rules associated with the Exchange, and the options available for restructuring the current health insurance marketplace, what should the state consider as it relates to the role of agents and brokers?

Illinois should establish an exchange that is sufficiently strong and transparent to allow small businesses and individuals to easily choose plans. If this is the case, there would be no need for brokers, and their role will lessen over time.

In the interim, the state should apply the same rules to brokers for plans inside and outside the exchange, clearly disclose to consumers and small businesses how much the commission is and how it is calculated, and establish uniform commissions across all insurers and plans to limit financial incentives that could encourage a broker to steer a client to a particular plan.

Structure of the Exchange Marketplace

1. Should Illinois operate one exchange or two separate exchanges for the individual and small group markets? Why?

Illinois should create one exchange for the individual and small group markets to create a large risk pool of enrollees to spread risk as widely as possible. Creating a single exchange would make the exchanges more attractive to insurers and promote competition. A single, large exchange would also give the exchange more market power to reduce premiums.

2. If there will be separate markets and separate exchanges, how large must the pools within these markets be to ensure stable premiums for both?

No response.

3. What should the Illinois definition of small employer be for initial Exchange participation in 2014?

No response.

4. Should Illinois consider setting any conditions for employer participation in the shop Exchange (e.g. minimum percent of employees participating, minimum employer contribution)?

No response.

5. Should Illinois permit large group employers with more than 100 employees to participate in the Exchange beginning in 2016? Are there any special considerations for including this group of which the State should be aware?

Illinois should permit large group employers with more than 100 employees to participate in the Exchange beginning in 2016 if doing so promotes a strong and stable market and improves affordability.

6. Should Illinois consider creation of separate, regional exchanges for different parts of the State? Should Illinois consider a multi-state Exchange?

Illinois should avoid regional exchanges for different parts of the state to reduce administrative costs and maximize the exchange's ability to negotiate strong pricing on behalf of consumers and small businesses.

Self-Sustaining Financing for the Exchange

1. How should the Exchange's operations be financed, after federal financial support ends on December 31, 2014?

The exchange should be funded through a mechanism that has the lowest chance of increasing consumer's cost of coverage. State General Revenue funds should be an option of last resort. The state should consider taxing the profits of insurance companies to pay for the exchange.

2. What are the ramifications of different financing options, specifically as they relate to the unique characteristics of Illinois' existing economy and health insurance marketplace?

No response.

3. Should the State consider a separate funding source for maintaining state benefit mandates? If so, what are some options?

Illinois should reexamine state-mandated benefits to ensure that they continue to be relevant and appropriate for all populations. Carefully crafted exemptions should be considered. However, state-mandated benefits account for a miniscule cost of health benefits. A separate funding source is not needed.

Eligibility Determination

1. How should the Exchange coordinate operations and create a seamless system for eligibility, verification and enrollment in the Exchange, Medicaid, the Children's Health Insurance Plan (CHIP), and perhaps other public benefits (food stamps, TANF, etc.)?

Illinois should adopt a “no wrong door” approach to eligibility for Medicaid and subsidies through the exchange. Most importantly, Illinois should maximize opportunities to gather data electronically from information systems maintained in other state agencies to verify income and other eligibility factors. The enrollment system should facilitate enrollment and requalification and not establish barriers to renewal. To the extent possible, the state should harmonize eligibility rules across programs.

2. When enrollees move between public and private coverage, how should Illinois maintain continuity of health care -- in plan coverage and in availability of providers, e.g. primary care physician?

Illinois should encourage continuity of care in several ways. First, Medicaid and all health plans should establish strong medical home programs, and all enrolled individuals with public and private insurance should be required to participate. Providers should receive adequate reimbursement for serving as a medical home, and bonuses for achieving or exceeding quality benchmarks. Providers should also receive bonuses for participating in electronic health records that facilitate the exchange of data between providers. Finally, Illinois should permanently raise rates for Medicaid primary care providers after federal support for higher rates ends. Doing so will increase participation in Medicaid by providers, facilitating coordinating.

3. What will maximize coordination between Medicaid as a public payer and insurance companies as private payers offering health insurance on the Exchange in their provider networks, primary care physicians ("medical homes"), quality standards and other items?

See above.

4. Should Illinois establish a “Basic Health Plan”? If so, what should be included in such a plan? Specifically, what does a “basic health plan” offer as a tool to facilitate continuity of coverage and care?

The state should consider establishing a Basic Health Plan if it will be more efficient and cost-effective than if low-income individuals purchased care through the exchange. The Basic Health Plan has the potential to lower costs for enrollees, minimize disruptions when income changes, and allow families to see the same providers, even a child is on Medicaid but the parents are not.

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